

**REMARKS**

The Amendment, filed in response to the Office Action mailed September 8, 2008, is believed to be fully responsive to all and every issue contained in the Action. A favorable reconsideration on the merits is respectfully requested.

Upon entry of the amendment, which is respectfully requested, claims 1-8 and 11-15 are all the claims pending in the application. Claims 1-8 and 11-12 are amended to more clearly set forth the subject matter of the invention. Claims 9-10, which are directed to non-elected invention, are canceled without disclaimer or prejudice in order to compact prosecution. Support for the amendments to the claims may be found by the original disclosure, for example at paragraph Nos. [0019], [0023]-[0025], and [0045]. New claims 13-15 are supported by the disclosure mentioned above and by original claims.

The specification is amended to correct clear typographic errors, which are also supported by the disclosure of the priority document. The amendment to the specification also contains the inclusion of cross-reference to the foreign priority application.

No new matter is introduced and entry of the amendments is respectfully requested.

***Response to the Objection to the Drawings***

In the Office Action, the drawings are objected to because Figure 1 does not contain any reference to SEQ ID NO: 1. The Office recommends to amend either the Brief Description of the Figure 1 to contain the reference to SEQ ID NO:1, or correct drawings.

In response, the Brief Description of Figure 1 is corrected to contain the reference to SEQ ID NO: 1, rendering the objection moot. Therefore, withdrawal of the objection is respectfully requested.

***Response to the Rejections under 35 U.S.C. § 112, First Paragraph***

In the Office Action, claims 1-8 and 11-12 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly lacking written description and an enabling description. In particular, the Office asserts that the specification, while being enabling for a specified, full-length promoter of the ibAGP1 gene of sweetpotato, does not reasonably provide enablement for any sequences from the region or any sequence derived from the gene that act as a sucrose inducible promoter. Furthermore, the Office asserts that the specification only describes the full-length 1907 base regions, and in combination with the 67 base region for use as a sucrose inducible promoter, but does not describe the use of any other sequences that contain as little as 2 base pairs of SEQ ID NO:1 as a sucrose inducible promoter. In this regard, the Office interprets the claim language to be drawn to an isolated plant sucrose –inducible promoter sequence comprising any sequence (as little as two base pairs) of a 1908 base region specified by SEQ ID NO: 1.

Without conceding with or commenting on the merits of the rejection, solely in order to advance the prosecution, claims 1-8 are amended to recite that the promoter sequence has the full-length of the ibAGPI gene, i.e., the sequence of the bp -1 to -1,908 region of the sequence in Figure 1 as well as to recite that the 5' untranslated region has the sequence of the bp +1 to +68 region of the sequence in Figure 1.

Therefore, the rejections are rendered moot and their withdrawal is respectfully requested.

New claims 13-15 each further limit the sucrose-inducible promoter sequence and the 5' untranslated region, and fully described and enabled by the disclosure of the specification.

***Response to Rejection under 35 U.S.C. § 102***

In the Action, claims 1-2 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Siedlecka et al (2003, In Planta, 217:184-192). The Office asserts that Siedlecka teaches a sucrose inducible promoter of the small subunit ADP-glucose pyrophosphorylase of Arabidopsis and the transformation of plants with the promoter which would inherently comprise “a” DNA nucleotide sequence of a bp -1 to -1908 region from SEQ ID NO:1. In this regards, the Office asserts that the term “derived” (of claim 2) is relative terminology and is being interpreted to mean having some relationship to the sequence, which the promoter taught by Siedlecka inherently has since the promoter is from the same gene.

Applicant respectfully traverse. The gene taught and used by Siedlecka is a small subunit of AGPase in Arabidopsis and there is no teaching or suggestion that the small subunit of AGPase in Arabidopsis has the same sequence to the subject matter defined in the claims of the instant application. Siedlecka does not teach or suggest a APGase originated from sweetpotato.

Nevertheless, solely in order to advance the prosecution, claims 1-8 are amended in order to recite the full-length sequence of the sucrose-inducible promoter sequence as well as 5’ untranslated region of SEQ ID NO:1.

Therefore, it is believed that the rejection is not sustainable and its withdrawal is respectfully requested.

New claims 13-15 each further limit the sucrose-inducible promoter sequence and the 5’ untranslated region, and are patentable over Siedlecka, for at least the same reasons as discussed above with respect to the amended claims 1-8.

**AMENDMENT UNDER 37 C.F.R. § 1.111**  
U.S. Application No.: 10/574,842

Attorney Docket No.: Q92637

### CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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